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In Re: Nicholas Queen

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-2050

IN RE: NICHOLAS QUEEN,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Middle District of Pennsylvania
(Related to M.D. Pa. Civ. No. 3:98-cv-02074)

Submitted Pursuant to Rule 21, Fed. R. App. P.
May 16, 2013
Before: RENDELL, JORDAN and SHWARTZ, Circuit Judges

(Opinion filed: June 13, 2013)

OPINION

PER CURIAM

Nicholas Queen has filed a petition for a writ of mandamus, asking that this Court enter an order directing the United States District Court for the Middle District of Pennsylvania to rule on Queen's pending motion for relief from judgment filed on March 11, 2013.

Mandamus is a drastic remedy available in only the most extraordinary circumstances. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005).

"A petitioner seeking the issuance of a writ of mandamus must have no other adequate

means to obtain the desired relief, and must show that the right to issuance is clear and indisputable.” Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996). A district court has discretion in managing the cases on its docket. In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982). When a matter is discretionary, it cannot typically be said that a litigant’s right is “clear and indisputable.” Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35-36 (1980). Nonetheless, we have held that a writ of mandamus may be warranted where undue delay is tantamount to a failure to exercise jurisdiction. Madden, 102 F.3d at 79.

Queen has not demonstrated undue delay in this case. Queen’s motion was filed on March 11, 2013, and Queen’s petition for a writ of mandamus was filed on April 16, 2013. Queen’s motion has been ripe for adjudication for a very short period of time, one that clearly does not rise to the level of undue delay and does not warrant our intervention. See id.

For the foregoing reasons, the petition will be denied.